

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE LOCAL 1034 PENSION  
TRUST FUND,

Plaintiff,

— against —

RAGUSA LIMOUSINE SERVICE, INC.  
and XYZ CORPORTIONS 1-10,

Defendants.  
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JOSEPH F. BIANCO, District Judge:

ORDER  
15-CV-4142 (JFB)(GRB)

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ **AUG 04 2016** ★  
LONG ISLAND OFFICE

Before the Court is a Report and Recommendation (“R&R”) from Magistrate Judge Brown on the issue of damages following the entry of default judgment in favor of plaintiff against defendant. The R&R instructed that any objections to the R&R be submitted within fourteen (14) days of service of the R&R. (*See* R&R, dated July 14, 2016, at 2.) The date for filing any objections has since expired, and no objections have been filed. For the reasons set forth below, the Court adopts the thorough and well-reasoned R&R.


Where there are no objections, the Court may adopt the report and recommendation without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”); *see also Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”); *cf.* 28 U.S.C. § 636(b)(1)(c) and Fed. R. Civ. P. 72(b)(3) (requiring *de novo* review after objections). However,

because the failure to file timely objections is not jurisdictional, a district judge may still excuse the failure to object in a timely manner and exercise its discretion to decide the case on the merits to, for example, prevent plain error. *See Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003) (“[B]ecause the waiver rule is non jurisdictional, we ‘may excuse the default in the interests of justice.’” (quoting *Thomas*, 474 U.S. at 155)).

Although the parties have waived any objection to the R&R and thus *de novo* review is not required, the Court has conducted a *de novo* review of the R&R in an abundance of caution and HEREBY ADOPTS the R&R.

IT IS HEREBY ORDERED that plaintiffs shall be awarded principal damages of \$75,502.00, interest of \$4,106.04, liquidated damages of \$15,100.40, attorneys’ fees of \$4,545.00, and costs of \$440.00, against Ragusa Limousine Services, Inc. The claims against XYZ Corporations 1-10 are dismissed. The Court shall issue default judgment accordingly.

SO ORDERED.

  
s/ Joseph F. Bianco

JOSEPH F. BIANCO  
UNITED STATES DISTRICT JUDGE

Dated: August 4, 2016  
Central Islip, New York